See volume 28 for record of original Exhibits

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1928.

No. ~~612~~ 19

ALEXANDER SPRUNT & SON, INC., ET AL., *Appellants*,

versus

THE UNITED STATES OF AMERICA, ET AL., *Appellees*.

THE JURISDICTION.

R. C. FULBRIGHT,
Counsel for Appellants.

PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.

IN THE

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No. 612.

ALEXANDER SPRUNT & SON, INC., ET AL., *Appellants,*

versus

THE UNITED STATES OF AMERICA, ET AL., *Appellees.*

THE JURISDICTION.

A. Statutes.

Section 238 of the Judicial Code as amended by Act of February 13, 1925 (c. 229, 43 Stat. 938), paragraph (4).

Urgent Deficiences Act of October 22, 1913 (c. 32, 38 Stat. 219, 220).

B. Decree.

The final decree was entered December 5, 1927 (Record page 132).*

*All references to the record are to the pages of the certified unprinted record prepared by the Clerk of the District Court and on file with the Clerk of this Court. The record has not yet been printed.

The application for appeal was filed and the order allowing the appeal was entered December 31, 1927 (Record pages 134 and 135). The case was docketed in the Supreme Court on December 31, 1928, under orders of the District Court extending the time therefor to that date (Record pages 159 to 167).

C. Rulings.

The suit (Record page 4) was brought to enjoin the enforcement of the order of the Commission (Record page 54a) entered April 4, 1928, in the proceedings entitled "Application of Rates on Cotton to Gulf Ports," Docket No. 14940, and "Weatherford, Crump & Company vs. Abilene & Southern Railway Company, et al.," Docket No. 13991, 123 I. C. C. Reports 685. The order directed respondent carriers to establish, maintain and apply, in the manner indicated in the report, export and interstate domestic rates, charges, regulations and practices which would remove the undue prejudice found to exist in the relationship between interstate rates on cotton for city deliveries and shipside deliveries in favor of warehouses of appellants at the ports of Galveston, Houston, Texas City, Beaumont, Port Arthur, and New Orleans, and shippers using such facilities and against warehouses and compresses located at interior points and back from the waterfront at the ports, and shippers using such facilities. The report, which was made a part of the order, found that the undue prejudice should be removed by increasing the city delivery rates 1 cent per 100 pounds and reducing the shipside rates (exclusive of wharf or pier terminal charges equivalent to 2 cents per 100 pounds) to the basis of the increased city delivery rates and that allowances on cotton which respondent carriers were

under obligation to transport to shipside under transit arrangements should be made except on cotton moved from the so-called waterfront warehouses of appellants upon and across adjacent wharves.

Circuit Judge Foster and District Judges Burns and Hutcheson who sat in the specially constituted District Court concurred in the full opinion (Alexander Sprunt & Son, Inc., *et al.*, v. United States, *et al.*, 23 Fed. (2) 874, Record page 121) and signed the final decree dismissing the bill (Record page 132).

D. Cases.

Baltimore & Ohio Railroad Company v. The United States, 277 U. S. 291, 48 Sup. Ct. Rep. 520.

United States v. Berwind-White Coal Min. Co., 274 U. S. 564.

United States v. New York Central Railroad Co., 272 U. S. 457.

Brimstone Railroad Company v. United States, 277 U. S. , 48 Sup. Ct. Rep. 282.

Western Paper Makers Chemical Company, *et al.*, v United States, 271 U. S. 268.

Respectfully submitted,

R. C. FULBRIGHT,
Counsel for Appellants.

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OCTOBER TERM, 1929.

No. 19.

ALEXANDER SPRUNT & SON, INC., ET AL., *Appellants.*

against

THE UNITED STATES OF AMERICA, ET AL., *Appellees.*

ON APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION.

STIPULATION FOR PASSING CASE FOR ORAL ARGUMENT AND EXTENDING TIME FOR FILING BRIEFS, IN SUPPORT OF ORAL MOTION TO PASS.

JOHN W. DAVIS,
R. C. FULBRIGHT,
Counsel for the Appellants.

PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.

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The stipulation hereinafter set forth has been executed by counsel for all parties in support of oral

motion by counsel for appellants to pass the oral argument in this cause, from the week beginning October 21, 1929, to the week beginning October 28, 1929, and embodies their agreement to the extension of time for filing briefs accordingly.

The principal reason supporting the motion is set forth in the stipulation and request is hereby made that if the motion cannot be granted as made then the parties do not consent to a continuance of the case and the argument will have to proceed as set.

JOHN W. DAVIS,
R. C. FULBRIGHT,
Counsel for the Appellants.

Dated at Washington, D. C.,
October 7, 1929.

STIPULATION FOR PASSING CASE FOR ORAL ARGUMENT AND EXTENDING TIME FOR FILING BRIEFS.

It is stipulated by and between counsel for all of the parties in the above entitled cause that this case, now set for oral argument for the week beginning October 21, 1929, may be passed and called for oral argument during the week of October 28, 1929; and counsel stipulate and agree to consent to motion of counsel for appellants to pass the case for argument in accordance with this stipulation. It is also agreed that the time to file briefs on the merits under Rule 25 may be extended for a period of ten (10) days.

The reason for the foregoing stipulation is that R. C. Fulbright, counsel for appellants, will have to participate in an argument before the Interstate Commerce Commission in I. C. C. Docket 17000, Part 2, Western Trunk Line Class Rates, upon the dates when it now appears that the above case will be reached for for argument in the Supreme Court and due to the fact that there are more than fifty counsel representing numerous diverse interests in the proceeding before the Commission, it is impractical to reset the argument before that body to a date which will be consistent with engagements of counsel without very great delay. As the proceeding before the Commission involves the general rate structure in the entire Northwestern section of the United States, counsel for appellants herein will present motion to pass the argument in this cause to the following week.

JOHN W. DAVIS,
R. C. FULBRIGHT,
Counsel for the Appellants.

GEORGE C. BUTTE,
For United States of America.

J. STANLEY PAYNE,
For Interstate Commerce Commission.

A. L. REED,
For other Intervenors.

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THE UNITED STATES OF AMERICA, *et al.*,
Appellees.

ON APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION.

BRIEF FOR THE APPELLANTS.

JOHN W. DAVIS,
R. C. FULBRIGHT,
Counsel for the Appellants.